

## **REMARKS/ARGUMENTS**

No amendments were made to the specification. No new matter has been added by any of the amendments to the specification.

Claims 1-3, 5-15, 17-27, and 29-36 are pending in the present application. Claims 1, 3, 6, 7, 8, 13-15, 17-25, and 27 were amended. Claims 4, 16, and 28 were canceled. Claims 37-39 were added. Support for amendment of claims 1, 13, and 25 can be found at least on page 11, lines 27-30, and page 12, lines 7-12, of the specification; further support for amendment of claim 25 can be found at least on page 31, line 2 of the specification. Support for new claims 37-39 can be found at least on page 21, lines 4-8, of the specification. Reconsideration of the claims is respectfully requested.

### **I. Examiner Interview**

Applicants thank Examiner Dailey for the courtesies extended to Applicants' representative during the October 30, 2007, telephone interview. During the interview, suggestions to amend the present application to overcome the rejections under 35 U.S.C. §§ 101, 112, and 102 were discussed. Examiner Dailey agreed that the proposed amendment to claim 25 would overcome the 35 U.S.C. § 101 rejection. Additionally, Examiner Dailey agreed that the proposed amendments to claims 3, 13-24, and 27 would overcome the 35 U.S.C. § 112 rejection. Finally, Examiner Dailey agreed that the proposed amendment to claim 1 would overcome the prior art, and thus overcome the rejection under 35 U.S.C. § 102. The substance of the interview is summarized in the remarks of sections that follow.

### **II. Objection to Claims**

The Examiner has objected to claim 8 because of the following informality:

Claim 8 is objected to due to a typographical error; "enviornment" (line 8) is misspelled.

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Applicants have amended claim 8 to correct the informality. Therefore, this objection has been overcome and should be withdrawn.

### **III. 35 U.S.C. § 101**

The Examiner has rejected claims 25-36 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

The Examiner states that:

The claims are drawn to a computer program product which comprises instruction means. The instruction means, interpreted in the light of the specification and other claims, is software. Software alone is functional descriptive material and is non-statutory when not embodied on a computer storage medium.

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By this response, claim 25 is amended to recite “A computer program product, on a recordable type computer readable medium having computer readable instructions, for use in a data processing system for logically provisioning resources . . . ” as specifically allowed for per the requirements of MPEP 706.03(a) and 2106. See, in particular, MPEP 2106(IV)(B)(1)(a) where it states:

A claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Therefore, Applicants respectfully submit that independent claim 25 is statutory. Claims 26-36 are dependant upon claim 25. Thus, Applicants respectfully request withdrawal of the rejection of claims 25-36 under 35 U.S.C. § 101.

#### **IV. 35 U.S.C. § 112, Second Paragraph**

The Examiner has rejected claims 13-24 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicants regard as the invention. This rejection is respectfully traversed.

The Examiner states that:

Claims 13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 15, and 27 recite, “said other ones” (e.g. claim 3, lines 4 and 8). It is unclear what “other ones” refers back to.

Claims 13-24 consistently refer to “said system” (e.g. claim 13, lines 3, 8, and 13). The preamble of claim 13 recites two systems, “A system for logically provisioning resources in a data processing system.” It is unclear what “said system” is referring to.

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The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

By this response, claims 3, 15, and 27 have been amended to correct dependency. In particular, claim 3 is amended to depend on claim 2; claim 15 is amended to depend on claim 14; and claim 27 is amended to depend on claim 26.

Claims 13 has been amended to recite “A data processing system for logically provisioning resources, comprising: a CPU, wherein the CPU executes code to receive a request for a set of resources in a plurality of resources in a provisioning environment . . .” in order to provide clarity. Claims 14-24 have been amended to reflect similar subject matter. Therefore, Applicants respectfully submit that the rejection of claims 3, and 13-24 under 35 U.S.C. § 112, second paragraph has been overcome.

#### **V. 35 U.S.C. § 102, Anticipation**

The Examiner has rejected claims 1-36 under 35 U.S.C. § 102 as being anticipated by *Nawata, Intermediary Device and Forwarding Method*, U.S. Patent Application Publication 2004/0125801 (July 1, 2004). This rejection is respectfully traversed.

Applicants first address this rejection with respect to claim 1. In rejecting claim 1, the Examiner states the following:

As to claim 1, *Nawata* a method for logically provisioning resources in a data processing system, said method comprising the steps of:

receiving a request for one of a plurality of resources in a provisioning environment, said one of said plurality of resources being one of a plurality of different types of resources ([0046], a router requests an IP address (resource));

selecting a particular instance of said one of said plurality of resources from a group of unassigned available resource of said plurality of different types of resources ([0046], DCP server assigns IP address (resource) to requesting router); and

logically provisioning said selected particular instance to fulfill the request by establishing logical relationships between said selected particular instance and other resources ([0047] and [0048], lines 1-9, DDNS server is informed of the newly assigned router address and the address is further associated with server information via the NAT (network address translator)).

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A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product

or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case, each and every feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

By this response, claim 1 has been amended to recite:

1. A method for logically provisioning resources in a data processing system, said method comprising the steps of:
  - receiving a request for a set of resources in a plurality of resources in a provisioning environment, wherein each resource in said set of resources is one of a plurality of different types of resources, wherein said plurality of different types of resources comprises hardware elements and software elements;
  - selecting a particular instance of a resource in said set of resources of said plurality of resources from a group of unassigned available resources of said plurality of different types of resources;
  - indicating that said selected particular instance is in the process of being reserved, wherein said selected particular instance is unavailable for selection after indicating the particular instance is being reserved; and
  - logically provisioning said selected particular instance to fulfill the request by establishing logical relationships between said selected particular instance and other resources.

Independent claims 13 and 25 recite similar subject matter. *Nawata* fails to teach the receiving step and the indicating step. Furthermore, *Nawata* does not disclose the feature of a plurality of different types of resources comprising hardware elements and software elements.

**V.A. *Nawata Fails to Disclose Receiving a Request for a Set of Resources in a Plurality of Resources in a Provisioning Environment Wherein Each Resource in Said Set of Resources is One of a Plurality of Different Types of Resources the Plurality of Different Types of Resources Comprising Hardware Elements and Software Elements***

*Nawata* fails to anticipate amended claim 1 because *Nawata* does not disclose “receiving a request for a set of resources in a plurality of resources in a provisioning environment, wherein each resource in said set of resources is one of a plurality of different types of resources, wherein said plurality of different types of resources comprises hardware elements and software elements” as in claim 1.

In rejecting claim 1, the Examiner cites to *Nawata* at paragraph [0046], which states:

In FIG. 7, firstly, router 2 requests, in a broadcast, DHCP server 6 to allocate a global IP address (S11). DHCP server 6, on receiving the request, allocates the global IP address to router 2 (S12). PC 9 for managing server 3 in this state accesses setting screen data of router 2 (S13). Router 2 accordingly transmits the setting screen data to PC 9 (S14). A user of PC 9 inputs the host name and the local IP address of server 3 from the setting screen (not shown), and PC 9 transmits a setting request for server 3 to router 2 (S15).

The cited portion discloses a router requesting an IP address. *Nawata* discloses a server receiving requests for IP addresses and subsequently allocating IP addresses. *Nawata* also discloses requests for

host names and domain names in order to translate IP addresses within a networking environment. *Nawata* only allocates IP addresses. An IP address does not disclose a software element. An IP address is simply a number that identifies each host in an IP network. Software, on the other hand, is computer instructions or data stored electronically on or within hardware elements. Moreover, even if the IP address of *Nawata* could, *arguendo*, disclose a software element, an IP address cannot possibly teach or suggest hardware elements, as is claimed in claim 1. Therefore, the presently claimed invention is distinguished from *Nawata*, because *Nawata* does not disclose “receiving a request for a set of resources in a plurality of resources in a provisioning environment, wherein each resource in said set of resources is one of a plurality of different types of resources, wherein said plurality of different types of resources comprises hardware elements and software elements.” Therefore, Applicants respectfully submit that the rejection of independent claim 1 under 35 U.S.C. § 102 has been overcome and is now in condition for allowance.

**V.B. *Nawata Fails to Disclose the Features of Indicating That a Particular Instance is in the Process of Being Reserved Wherein Said Particular Instance is Unavailable for Selection After Indicating the Particular Instance is Being Reserved***

*Nawata* fails to anticipate amended claim 1 because *Nawata* does not disclose “indicating that said particular instance is in the process of being reserved, wherein said particular instance is unavailable for selection after indicating the particular instance is being reserved.” *Nawata* does not disclose the feature of indicating that a particular instance is in the process of being reserved, nor does *Nawata* disclose the feature of a particular instance being unavailable for selection after being indicated as in the process of being reserved. The third step of amended claim 1 is incorporated from canceled claim 4.

In rejecting canceled claim 4, the Examiner cites to *Nawata* at paragraph [0046], which is quoted above. As discussed above, the cited portion discloses a networking environment that requests and allocates IP addresses. *Nawata* discloses a DHCP server receiving a request to allocate a global IP address, and subsequently allocating the global IP address to a router. *Nawata* does not disclose indicating that an instance of a particular resource is in the process of being reserved, nor does *Nawata* disclose an instance of a particular resource being unavailable for selection after being indicated as in the process of being reserved.

Thus, the presently claimed invention is distinguished from *Nawata*, because *Nawata* discloses a DHCP server allocating an IP address. *Nawata* does not disclose indicating that an instance of a particular resource is in the process of being reserved and unavailable for selection. Therefore, Applicants respectfully submit that the rejection of independent claim 1 under 35 U.S.C. § 102 has been overcome and is now in condition for allowance.

**V.C. *Independent Claims 13 and 25***

Independent claims 13 and 25 recite similar subject matter as claim 1. Therefore, claims 13 and 25 are distinguishable over *Nawata* for at least the reasons set forth above with regard to claim 1. Applicants respectfully submit that the rejection of independent claims 13 and 25 under 35 U.S.C. § 102 has been overcome and is now in condition for allowance.

**V.D. *Dependent Claims 2-12, 14-24, and 26-36***

Claims 2-12, 14-24, and 26-36 depend on independent claims 1, 13, and 25. Therefore, at least by virtue of their dependence on claims 1, 13, and 25, *Nawata* does not anticipate these claims. Moreover, dependent claims 7 and 9 recite additional combinations of features not taught by the cited art. For example, dependent claim 7 recites “associating a state variable with each one of said plurality of resources; indicating whether each one of said plurality of resources is shared utilizing said state variable.” As discussed above, *Nawata* discloses a router requesting an IP address, and subsequently allocating an IP address to a host server. *Nawata* does not teach or suggest “indicating whether each one of said plurality of resources is shared.” An IP address is inherently incapable of being shared with more than one unique host server. In contrast, the presently claimed invention discloses “a plurality of resources being one of a plurality of different types of resources” as claimed in claim 1. The presently claimed invention further discloses “indicating whether each one of said plurality of resources is shared utilizing said state variable” as claimed in claim 7. Thus, *Nawata* fails to disclose the features of claim 7.

Additionally, dependent claim 9 recites “creating a topology for said provisioning environment, said topology including a layout of said plurality of different types of resources.” *Nawata* does not teach or even mention a topology including a layout of a plurality of different types of resources. Thus, *Nawata* fails to teach each and every feature of claim 9.

As shown above, *Nawata* does not disclose all of the features as recited in claims 1-36. Therefore, it is respectfully urged that the rejection of claims 1-36 under 35 U.S.C. § 102 has been overcome and all claims are in condition for allowance.

**VI. Conclusion**

It is respectfully urged that the subject application is patentable over *Nawata* and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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